

26 May 2025



Minto Planning Services Pty Ltd
PO Box 424
BEROWRA NSW 2081

Dear Sir/Madam,

Development Application No: DA2025/0173 for Demolition works and construction of a residential flat building at 140 & 142 Ocean Street NARRABEEN.

An assessment has been undertaken of your application. The assessment has found that it is unsatisfactory in its current form for the reasons identified below:

Built Form and Urban Design

The application was subject to a Design and Sustainability Advisory Panel (DSAP) meeting on 24 April 2025. The DSAP Report can be viewed on Council's application tracker.

While generally supportive of the development, the DSAP have provided several recommendations in relation to the built form, residential amenity and sustainability considerations.

You are required to address these recommendations appropriately via way of amendments to the architectural plans and an addendum to the Statement of Environmental Effects (SEE) that addresses each recommendation. Where it is not feasible to incorporate one or more of the DSAP recommendations, the SEE addendum must provide appropriate justification.

Residential Amenity

The development is subject to the Apartment Design Guide (ADG) pursuant to *State Environmental Planning Policy (Housing) 2021*.

Solar Access and Communal Open Space

Part 4A of the ADG states that no more than 15% of apartments should receive no sunlight on June 21. Apartments APT 03 and APT 08 (i.e. 18.18% of the total number of apartments) do not receive any sunlight on June 21, which does not satisfy Part 4A of the ADG.

Furthermore, Part 3D of the ADG requires at least 25% of the site area to comprise of communal open space. No communal open space is proposed.

The assessment has identified that there is a surplus of private open space at the roof level that is allocated to apartments APT 06 and APT 07. Council may support a minor variation to Part 4A of the ADG, provided communal open space is provided at the roof level in lieu of the surplus private open space. This will ensure that the occupants of apartments APT 03 and APT 08 have access to sunlight during winter. The communal



open space does not need to meet the 25% of site area minimum requirement; however, should be setback at least 6 metres from the side and rear boundaries in accordance with Part 3F of the ADG.

Council notes that this amendment may require alterations to the lift overrun that would potentially trigger a minor non-compliance with clause 4.3 – height of buildings under the *Warringah Local Environmental Plan 2011* (WLEP).

Council is likely to support a minor non-compliance with clause 4.3 of the WLEP to facilitate communal open space on the site, provided the extent of the breach is minor and that the lift is centralised within the site to minimise impacts on neighbouring properties. A clause 4.6 variation request must also be submitted if there are any breaches to the height standard.

Note: If the amended development results in non-compliance with clause 4.3 of the WLEP, then the application will be re-advertised for 14 days.

Visual Privacy

Part 3F of the ADG requires habitable rooms and private open space to be setback 6 metres from side and rear boundaries to maintain privacy to adjoining properties.

The southern elevation of the balcony serving apartment APT 09 is located 4.5m from the side boundary and would enable the occupants to overlook into an area of private open space within the southern adjoining residential flat building at 134-138 Ocean Street.

While a privacy screen is affixed to a portion of the balcony, the remaining area is devoid of screening. Providing a full privacy screen along the southern elevation would preclude an outlook from internally within the apartment. In this regard, it is suggested that the remaining area of the balustrading contain screening to a height of at least 1.0 metre above the finished floor level, which will assist in mitigating overlooking (particularly from seated positions or when standing back from the edge of the balcony), while not compromising an outlook from internally within the apartment.

Objector's Concerns

You are encouraged to review the submissions that have been lodged in relation to the application and consider any design solutions that may resolve relevant concerns.

Submissions that are available online in accordance with the Northern Beaches Community Participation Plan can be viewed on Council's website at the following link, using the application number as a reference:

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Public/XC.Track/SearchApplication.aspx>

Options available to the Applicant

Council is providing you with two (2) options to progress your application:

1. Prepare and submit further supporting information/amendments to address the above issues. Please carefully read the below advice if you choose this option.



2. Request that the current proposal proceed to determination in its current form, which may result in refusal of the application.

Please advise of your selected option by responding **within 7 days of the date of this letter** by email sent to council@northernbeaches.nsw.gov.au marked to the attention of the assessment officer. Should Council not receive your response by this date, Council will determine the application in its current form.

Submitting further information/amendments

Council will offer **one** opportunity to provide feedback on conceptual amendments addressing the issues raised in this letter. We strongly request that you contact the assessment officer directly for a 'without prejudice' discussion on your proposed resolution of the issues and the submission requirements **before** lodging any documentation on the NSW Planning Portal.

Conceptual amendments must be provided to Council for feedback **within 21 days of the date of this letter**. If conceptual amendments are deemed sufficient, we will then provide you with a timeframe upon which an amended application is to be lodged on the NSW Planning Portal (generally 14 days).

Please ensure that the amended/additional information submitted on the NSW Planning Portal is a genuine attempt to resolve the issues as Council will generally not seek any further information/amendments after that point. Council will proceed to assess and determine the application based on the submitted information without further consultation. Whilst we will provide feedback on your conceptual amendments in good faith, this cannot guarantee the approval of the amended application.

As part of any amended application, it may be necessary to update your supporting documentation (e.g., BASIX certificate, bushfire report, geotechnical report, etc.). Failure to do so may affect Council's ability to determine the application favourably.

Please ensure that any amendments are accompanied by a summary/schedule of amendments cover sheet.

Council reserves its right under section 37 of the *Environmental Planning and Assessment Regulations 2021* not to accept any information/amendment if it is not considered to be a genuine attempt to resolve the issues. In which case, Council will inform you that the changes have not been accepted and the application will proceed to be determined.

This process has been established to ensure an efficient and responsible level of service which meets the requirements of the Department of Planning and Environment's *23A Guidelines on withdrawal of Development Applications 2023*, Ministerial Orders *Statement of Expectations 2021* and the *Development Assessment Best Practice Guide 2017*.

As per the requirements of section 36 of the *Environmental Planning and Assessment Regulation 2021*, you are advised that this application was accepted and 89 days in the assessment period have now elapsed.



This letter will be released on Council's webpage as part of the application's documentation.

Should you wish to discuss any issues raised in this letter, please contact the undersigned on 1300 434 434 during business hours Monday to Friday.

Yours faithfully

A handwritten signature in black ink. The signature is written in a cursive style, with the first letter 'T' being large and prominent. The name 'Burns' is written in a smaller, more fluid script. The signature is located below the 'Yours faithfully' text.

Tom Burns
Principal Planner, Development Assessment